

Murray Code Enforcement Board Minutes July 17, 2006

The Murray Code Enforcement Board met in special session on July 17, 2006 at 5:00 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Ben Blakely, Mitzi Key, Thomas Rottinghaus and Sam Underwood

Board Members Absent: Bill Adams

Others Present: David Roberts, Mayor H. Thomas Rushing, Matt Mattingly, Dickie Walls, Larry Doyle and Dannetta Cossey

At this time, Chairman Ben Blakely administered the oath of office to Thomas Rottinghaus.

Chairman Ben Blakely called the meeting to order and had an attendance roll call.

Approve Minutes from June 6, 2006 Meeting: Chairman Blakely asked for approval of the June 6, 2006 minutes. **Sam Underwood made a motion to approve the June 6, 2006 minutes. Mitzi Key seconded the motion.**

Public Hearing – Larry Doyle Chairman Blakely asked if the City Representative had any witnesses to testify on his behalf. Dickie Walls stated no. Chairman Blakely then asked Mr. Walls if he was ready to proceed with the hearing. Mr. Walls answered yes. Chairman Blakely asked if Mr. Larry Doyle was present. Mr. Doyle answered yes. Chairman Blakely advised Mr. Doyle he had the right to either continue the hearing or request an immediate judgment be entered which would be based on the minimum fine allowed by the City Ordinance. Chairman Blakely asked Mr. Doyle if he was ready to proceed with the public hearing. Mr. Doyle answered yes. Chairman Blakely asked Mr. Doyle if he had any witnesses to testify on his behalf and Mr. Doyle answered no. At this time, Chairman Blakely call the public hearing of the City of Murray vs. Larry Doyle to order. Dannetta Cossey read the case information. Chairman Blakely asked if any Board member had any direct or indirect financial or personal interesting in any matter to be decided by the board. Chairman Blakely stated that he did have a business relationship with Mr. Doyle so he would be excusing himself from the Board and a new Chairman needed to be elected. Chairman Blakely nominated Mitzi Key to act as Interim Chairman for the public hearing and it was agreed by consent of Mr. Underwood and Mr. Rottinghaus. At this time, Mrs. Key took the chair. **Mrs. Key stated that the minutes were approved but not voted on. The motion to approve the June 6, 2006 minutes carried by a 3-0 voice vote.** Mrs. Key asked Dickie Walls to come forward and state his name, title, and position with the City. Mr. Walls testified that on March 7, 2006 he issued a notice of violation to Mr. Larry Doyle of 103 South 14th Street for violation of the Property Maintenance Code Section 108.1.1 because his garage in the back yard had collapsed and needed to be razed and removed. Mr. Walls submitted photographs to be entered as evidence. Mr. Walls stated that he gave Mr.

Doyle thirty days to remove the structure. Mr. Walls said on or about April 6th, Mr. Doyle came into his office stating he had illness during that time and wasn't able to complete the removal of the garage. Mr. Walls stated he told Mr. Doyle as long as substantial progress was being made he would grant him another thirty days to comply. On May 4th, Mr. Walls said there had been some progress made but a substantial amount of the garage was still laying in the yard so he issued a Notice of Violation with a penalty which he mailed certified. Mr. Walls submitted the certified mail receipts and photographs taken that day as evidence. Mr. Walls continued to say, after Mr. Doyle received the notice of violation with the penalty he came to see him and Mr. Walls advised Mr. Doyle of the process of appealing. Mr. Walls stated that he went to check the condition today and at this time, the structure has been razed and removed except for a small section that is structural sound that Mr. Doyle intends to use as an out building and a portion of the back wall which is being used as a fence which is also in sound condition. Mr. Walls submitted as evidence photographs that were taken that day. Mrs. Key asked Mr. Walls if he was the one that took the pictures. Mr. Walls stated he took the pictures except for the last two and Mr. Doyle took those. Mr. Rottinghaus asked if the pictures adequately represented the violation and Mr. Walls answered yes. Mrs. Key asked Mr. Doyle if he had any questions for Mr. Walls. Mr. Doyle answered no but he wanted to make one comment that the May 4th certified letter he did receive but it was never signed for because he found it in his Time Magazine. Mr. Underwood asked how much time elapsed before he came into compliance. Mr. Walls stated that Mr. Doyle had been making progress since May 4th but was not sure what day it was completed. Mr. Rottinghaus asked Mr. Walls if he was required by ordinance or statute to ensure that the postal service get a signature or only required to send the notice of violation certified. Mr. Walls stated that he was only required to mail it certified. Mrs. Key swore in Mr. Walls. Mrs. Key called Mr. Doyle forward, swore him in and asked him to state his name and address. Mr. Doyle submitted dump tickets as evidence. Mr. Doyle stated that there was a misunderstanding about what sufficient progress was because it wasn't written down and he didn't have a truck or trailer so he was depending on neighbors to help him. Mr. Rottinghaus asked if the date on the last dump ticket of July 13th was when everything was completed. Mr. Doyle answered yes. Mr. Rottinghaus asked how many times Mr. Doyle had talked with Mr. Walls. Mr. Doyle said at least 3 times. Mr. Rottinghaus asked if it was correct that the initial contact was on March 7th, then on April 6 Mr. Doyle told Mr. Walls about health issues and asked for more time, then May 4th received a notice of violation. Mr. Doyle said yes but he didn't receive the notice of violation until around the 10th of May. Mr. Rottinghaus asked Mr. Doyle if he signed a request for additional time. Mr. Doyle said he made a written request on May 23rd. Mr. Doyle stated that Mr. Walls said sufficient progress needed to be shown and he felt he was doing that. Mr. Rottinghaus asked if the first time Mr. Walls spoke to him if Mr. Walls gave him any indication of the violation and what the penalty would be. Mr. Doyle stated that the first contact was by certified mail. Mr. Underwood asked if the only way someone could get an extension was if they came before the Board. Mr. Walls stated that after a notice of violation is issued with a penalty that only the Board can issue an extension. Mr. Rottinghaus asked when Mr. Doyle became sick and couldn't move anything. Mr. Doyle stated that was during March. Mr. Underwood asked why he didn't work on it in the month of May. Mr. Doyle stated that he was either working out of town or didn't have access to a trailer to haul it. Mr. Walls stated that Mr. Doyle had contacted the City for a dumpster but the City was unable to put one on his property. Mr.

Rottinhaus asked when that was. Mr. Doyle stated either in August or September of last year but the City told him that one was not available but he was on their list for one. Mr. Rottinhaus asked why other arrangements were not made at that time to haul it off. Mr. Doyle stated that he didn't see a big hurry to get it torn down and still didn't but he worked on it when he had a trailer to haul it and when the weather was good. Mr. Underwood asked Mr. Doyle if he thought the building should come down. Mr. Doyle said he had been working to get rid of it. Mrs. Key asked if this violation was something that a city representative saw and decided to take care of or did someone call about it. Mr. Walls stated he received a call. At this time, Mrs. Key closed the public hearing. Mr. Underwood stated he felt Mr. Doyle had ample time and that there does need to be penalty. Mr. Underwood asked what the penalty on the citation was. Ms. Cossey said on the citation dated May 4th it was \$100.00 per day. Mr. Underwood stated that Mr. Doyle did get the building removed and that was the main thing. Mr. Rottinhaus said Mr. Doyle was first contacted on March 7th and it wasn't complete until July. Mr. Rottinhaus said he didn't feel a \$100.00 per day fine needed to be imposed but he did feel some type of penalty needed to be imposed for the lack of Mr. Doyle's concern to get the violation taken care of in a timely fashion. Mrs. Key said she felt the Board not meeting until tonight gave Mr. Doyle an extension by lack of the Board's ability to meet and he still didn't have it completed until July. Mr. Roberts asked the Board to state their findings of facts before making a motion. The Board agreed that Mr. Doyle did have ample time to correct the violation, that it was Mr. Doyle's responsibility to comply with the violation, that Mr. Walls met all legal requirements of the City Ordinance, and that the photos submitted did show a violation did exist. **Sam Underwood made a motion ordering Larry Doyle to pay a civil fine in the amount of \$358.00 to the City of Murray within 10 days. Thomas Rottinhaus seconded the motion and it carried by a 3-0 voice-vote.** Mrs. Key informed Mr. Doyle that a copy of the Board's order would be mailed to him within seven days.

Under other business, Dannetta Cossey stated that John Losee had come into compliance of his violation and has appealed the Board's decision to the Circuit court. Mr. Roberts said a response to the appeal has been made by the City attorney.

Being no further business, Sam Underwood made a motion to adjourn. Thomas Rottinghaus seconded the motion.

Chairman, Ben Blakely

Recording Secretary, Dannetta Cossey